

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.4224 OF 2004

Ms.Anita Agarwal for the Petitioner.

Mr.N.D.Jaywant for Respondent.

Office Notes, Office
Memoranda of Coram,
appearances, Court's
order or directions

Court's or Judge's
orders

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CORAM: D.K.DESHMUKH, J.

DATED: 20TH APRIL, 2005

P.C.:

1. By the impugned order the court has rejected the application filed by the Petitioner/wife for stay of further proceedings in a petition for divorce filed by the husband on the ground that the husband is not paying the amount of interim maintenance.

2. There is no provision of law, which vests jurisdiction in the court to stay further proceedings in a divorce petition filed by the

husband, because the husband is not paying the interim maintenance. If the husband is not paying the interim maintenance, the remedy of the wife is to execute that order. In a given case she may be entitled to apply for dismissal of the petition, but in no circumstances further proceedings can be stayed, only for the failure to pay the maintenance. In my opinion, filing of such petition amounts to abusing the process of the court. Petition is rejected. The Petitioner is directed to pay costs of this petition to the Respondent, as incurred by the Respondent.

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